

MINUTES OF THE January 5, 2006 PUBLIC HEARING OF THE CHINCOTEAGUE PLANNING COMMISSION

Members Present:

Mr. Ray Rosenberger, Chairman
Mrs. Jane Wolffe
Mrs. Ellen Richardson
Mrs. Mollie Cherrix
Mr. Bob Behr
Mr. Tom Derrickson
Mr. C. Ray Daisey
Mr. Kenny L. Lewis, Staff Support

1. Call to Order.

Chairman Rosenberger called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

2. Public Hearing on Proposed Subdivision Ordinance and Zoning Ordinance Changes.

Chairman Rosenberger explained that the reason for the public hearing is to address the issues about parking lots, subdivisions and marinas. He reminded those wishing to address the Commission to sign in.

Building and Zoning Administrator Lewis read the proposed changes as:

The Planning Commission recommends the following changes and/or additions to the Town's Land Subdivision and Development Ordinance:

Section

2.02. Definitions:

Fire Safety. To assure Fire Safety, Emergency vehicles can adequately service the needs of people and structures associated with parking areas and parking lots, an Emergency Lane (s) shall be established that provides vehicle access to at least 100 feet of any structure(s) with a lane width of 18 feet.

Parking Lot. An off street facility, including parking spaces, along with adequate provisions for drives and aisles for maneuvering and giving access, and for entrance and exit, all laid out in a way to be usable for parking. Spaces shall be defined and shall be 10 feet by 20 feet for automobiles and 10 feet by 30 feet for boat trailers where applicable. A parking area for boat trailers shall be established in a separate area from vehicle parking and not adjacent to any public right-of-way or within 30 feet of such. Aisles shall be 22 feet or more in width. Access and exit from and to Town roads shall meet VDOT standards for width and paving and shall be at least 50 feet in length. All parking lots and parking areas shall be constructed and maintained by a paved surface meeting VDOT standards. Parking lots will be required to have safe pedestrian traffic capability by providing sidewalks or defined safe walkways that provide access to the structures served by these lots.

***Parking Space.* An off-street space available for parking of (1) one motor vehicle and having an area not less than 10 feet by 20 feet and an area of 10 feet by 30 feet for boat trailers exclusive of passageways and driveways appurtenant thereto, and having direct access to a street or road.**

Right-of-way.* A strip of land dedicated or reserved for a road, ~~crosswalk~~, sanitary or storm sewer, water main, drainage ~~facility~~ **facilities**, public utility or other special use **to serve lots within a subdivision. Any right-of-way for subdivision planning purposes under this Ordinance shall be required to be specifically shown on plat. Any such right-of-way shall not be situated within the dimensions or area of any platted lot, unless specifically permitted hereunder. The term "right of way" for land platting purposes under this ordinance shall mean that every right of way hereafter established and shown on a plat is to be separate and distinct from lots or parcels adjoining such right of way and not included within the dimensions or areas of such lots or parcels.*

Road.* Any public or private way set aside as a permanent right-of-way for ~~motor vehicle travel and affording the principal means to abutting properties.~~ **vehicular traffic that results from the subdivision of land, including the entire area within the right-of-way. For purposes of this Ordinance the term "road" shall not include, except as may be specifically required by the Virginia Department of Transportation's Subdivision Street Requirements, effective January 1, 2005, for inclusion into the secondary system of state highways, those areas within approved townhouse or condominium complexes designated for resident or guest parking and/or utilized to provide ingress and/or egress to and from such designated parking areas.*

For the purpose of this ordinance, the word "road" shall include the words "streets," "highway," ~~and,~~ "avenue," "boulevard," "alley," "lane" and "drive."

***Road, private.* A road owned by one or more persons, restricted in use and not maintained by the Town of Chincoteague, the Virginia Department of ~~Transportation Highways~~ **Transportation** ~~[Transportation]~~ or one not intended for acceptance **by the developer** into the state highway system.**

Road, public.* A road maintained by the Town of Chincoteague, the Virginia Department of Highways ~~[Transportation]~~ or one intended for acceptance into the state highway system and approved by the roads engineer as meeting Virginia Department of ~~Highway [Transportation] specifications.~~ **Transportation Subdivision Street Requirements, as herein provided.*

14.08. *Effect of recordation of the final plat.* Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

(a) State whether officially approved water and sewage facilities are available or not.

~~(b) State whether roads are public or private.~~

(~~e~~) (b) State whether [the] lot is located in the floodplain.

14.09. *Improvements required to be provided in a major subdivision.* The following improvements shall be provided by the developer in a major subdivision as a prerequisite for recordation of the final plat, as may be required:

- (a) **All roads ~~Public roads as may be required,~~ must be developed in accordance with the Virginia Department of Transportation 2005 Subdivision Street Requirements, as may be amended from time to time, and eligible for addition to the secondary system of state highways maintained by the Virginia Department of Transportation and/or the Town of Chincoteague, if the developer and/or the owners of the lots, parcels, or units within the subdivision; or alternatively, in the event that the developer does not intend such roads to be added to the secondary systems, a legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels, or units or an association comprised of such owners are financially obligated to maintain such road in accordance with the above requirements or criteria subsequent to the termination of the development's maintenance obligation. A valid land use permit for connection to a public road is required.**
- (b) Drainage improvements.
- (c) Installation of water and/or sewer mains, if public service is available.
- (d) Surveying monuments.
- (e) Street signs on public roads.
- (f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

15.04. *Effect of recordation of the final plat.* Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

- (a) State whether officially approved water and sewage facilities are available or not.
- ~~(b) State whether roads are public or private.~~
- ~~(c)~~ (b) State whether [the] lot is located in the floodplain.

15.05. *Improvements required to be provided in a minor subdivision.* The following improvements shall be provided by the developer in a minor subdivision as a prerequisite for recordation of the final plat, as may be required:

- (a) **All roads ~~Public roads as may be required,~~ must be developed in accordance with the Virginia Department of Transportation 2005 Subdivision Street Requirements, as may be amended from time to time, and eligible for addition to the secondary**

system of state highways maintained by the Virginia Department of Transportation and/or the Town of Chincoteague, if the developer and/or the owners of the lots, parcels, or units within the subdivision; or alternatively, in the event that the developer does not intend such roads to be added to the secondary systems, a legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels, or units or an association comprised of such owners are financially obligated to maintain such road in accordance with the above requirements or criteria subsequent to the termination of the development's maintenance obligation. A valid land use permit for connection to a public road is required.

- (b) Drainage improvements;
- (c) Installation of water and/or sewer mains, if public service is available;
- (d) Surveying monuments;
- (e) Street signs on ~~public~~ roads; and
- (f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

16.03. ~~Public~~ roads. The following standards shall apply to the layout of ~~public~~ roads:

(a) Private roads are prohibited.

- ~~(b)~~ (b) The arrangement, character, extent; grade, width, and location of all roads shall be acceptable to the roads engineer and shall be considered in their relation to existing and planned roads, to topography, to public convenience and safety and to the proposed uses of the land to be served by such roads.
- ~~(c)~~ (c) The road layout shall provide for the continuation or projection of roads already existing in the area, unless such extension is undesirable for reasons of topography, design, or safety.
- ~~(d)~~ (d) The name of any proposed road shall not be the same or similar to the name of any existing road, and shall be approved by the governing body, except that extensions of existing roads shall bear the same name as the existing road.
- ~~(e)~~ (e) Local roads shall be laid out so as to discourage their use by through traffic.
- ~~(f)~~ (f) If a portion of a parcel is not to be subdivided at the present time, suitable access for the future subdivision of such portion shall be provided, unless such unsubdivided portion is clearly unsuitable for development.
- ~~(g)~~ (g) Where stub roads are provided abutting unsubdivided land, temporary easements for turnarounds may be required by the roads engineer, zoning administrator or planning commission.

~~(g)~~ (h) Where natural features or the design concepts employed make their use appropriate, cul-de-sacs may be used. Cul-de-sacs shall not be more than 800 feet in length, except by permission of the town, and each cul-de-sac shall be terminated with a turnaround of not less than a 30-foot radius in diameter.

~~(h)~~ (i) Layout of roads shall minimize the number of access points to collector roads and arterial highways.

~~(i)~~ (j) Layout of roads shall minimize pedestrian and vehicle conflict points. The town may require the installation of sidewalks when such improvements are important to traffic safety.

~~(j)~~ (k) Alleys should be avoided whenever possible.

~~(k)~~ (l) Multiple intersections involving the junction of more than two roads shall not be used, except by permission of the town. Roads shall be laid out to intersect as nearly as possible at right angles.

~~(l)~~ The minimum width of proposed roads, measured from lot line to opposite lot line, shall be as shown on the town's major road plan, or if not shown on such plan, shall be:

~~1. Collector roads, not less than 50 feet.~~

~~2. Local roads, not less than 50 feet.~~

~~3. Service roads and other roads, not less than 50 feet.~~

~~4. Alleys, if permitted, not less than 20 feet.~~

~~When any subdivision abuts an existing public road with inadequate right of way, the town may require the developer to dedicate the necessary right of way to meet the minimum right of way requirement as indicated above to the Virginia Department of Transportation.~~

~~(m)~~ All proposed roads shall be constructed by the developer in accordance with Virginia Department of Transportation secondary roads specifications and requirements.

(m) The developer shall install at all intersections street signs of a design approved by the roads engineer at the expense of the developer.

~~16.04. Private roads. The following standards shall apply to private roads:~~

~~(a) Private roads may not be platted within a subdivision, except when the subdivision is designated a small scale or low density development with the total number of lots to be served not exceeding ten. The developer shall specify on all plats that the roads are private and not subject to be maintained by the Commonwealth of Virginia or the Town of Chincoteague. The developer by written statement shall further agree to release, discharge and absolve all governmental agencies from all immediate and future responsibility with regard to the improvements or maintenance of the private roads and rights of way so established, and shall record such statement with the deeds of transfer for each lot fronting on a private road. (See addendum 5 for example.)~~

- ~~(b) Private roads shall have a right of way of not less than 30 feet for their entire length and shall connect to a public road, unless the town shall waive such requirement. In making such exceptions, the town may attach such additional requirements and limitations on the subdivision as it may judge appropriate.~~
- ~~(c) No private road access shall be established nor the number of lots served by an existing private road right of way increased unless the roads engineer approves the access of that private right of way to the public road system.~~
- ~~(d) No private road right of way shall be platted until the developer has specified in writing who is responsible for its improvement and maintenance. Such statement shall appear on the face of the plat and in each deed for abutting lots.~~

The Planning Commission also recommends the following changes and/or additions to the Town's Zoning Ordinance.

In Commercial District C-1; Section 4.2.4 Conditional Use Permits Add new section; **4.2.4.1 Parking Garages and other similar structures.**

In Commercial District C-2; Section 4.5.4 Conditional Use permits Add new section; **4.5.4.1 Parking Garages and other similar structures.**

Amend Section 6.6.7 as follows:

“For marinas and other similar facilities, except as expressly provided herein, whether any main building is erected or enlarged or not, there shall be provided at least one (1) parking space for each mooring (10’x30’), plus ten (10) parking spaces for each single width boat ramp, with each space ten feet (10 ft) in width by forty-five feet (45 ft) in length plus the parking spaces required by Section C, as applicable, if there are buildings. Any private non-commercial marina located on the same parcel of land, used in conjunction with the main use on such parcel and the use of which is restricted to the owner(s) or occupant(s) with or without compensation, shall require one additional parking space for each mooring in excess of the number required for the main structure or use.”

Chairman Rosenberger explained the differences and reasons for the changes and invited public comments.

Councilman Wolffe asked for clarification on the last sentence. He suggested adding “for each mooring” after the word “space” and before the word “in” in the last sentence. He feels it would clarify the intent.

Ms. Beverly Fleming stated that she will be getting one of these parking lots across the street from her property and asked about lighting. Chairman Rosenberger stated that there are lighting requirements. Mrs. Wolffe offered to loan Ms. Fleming her copy of the requirements for review.

Chairman Rosenberger closed the public hearing for the zoning changes. He stated that the Commission will be presenting the proposed changes to the Town Council for review at their next meeting.

3. Review of Major Subdivision Plat for Sunset Bay 1 & 2.

Chairman Rosenberger stated that this subdivision is for the properties of Captain Fish's and Chincoteague Inn. He explained the process leading up to the review by the Planning Commission for a subdivision proposal.

Chairman Rosenberger stated that the Commission has a request from Mr. Freddie Obrecht for the development of Sunset Bay 1 & 2. He referred to page 7 and stated that there should be changes from "South Main Street" to "Main Street", and from the "Circuit Court of the Town of Chincoteague" to "Circuit Court of the County of Accomack". Chairman Rosenberger asked if the documents should be notarized in Virginia and not Maryland. Mr. Obrecht was unsure and will check into the matter. Chairman Rosenberger stated that the storm water permit dated 9/19/05 is for "Landmark". Mr. Obrecht stated that the permit is for this specific project and issued a couple of months ago.

Chairman Rosenberger stated that the number of boat slips in the plan conflicts with the number of slips approved by the VMRC. Mr. Obrecht stated that they are currently not applying for the marina because of inadequate parking. He advised that they have omitted this from all the condo documents. Chairman Rosenberger wanted to know if and when there is an application for the marina if the mitigation requirement was going to be the same. Mr. Obrecht advised that mitigation has been approved for the marina and will be constructed with the bulkheads.

Mr. Obrecht advised that all the property will go to settlement in March 2006. He also added that all the permits are in his name. He stated that the project will be Sunset Bay North and Sunset Bay South. He stated that they currently have permits to build 36 units with the present land. He added that when they go into phase 2 they will expand the plan which is reflected in the plans to DEQ. There were questions about sprinkler systems and hydrant locations. Mr. Danny Tolbert, ESP Designs, explained that there will be a hydrant on each side. Chairman Rosenberger expressed his concerns for emergency vehicular access to the property. Mr. Obrecht advised that there are plans for emergency access of 18' in width.

Chairman Rosenberger asked if there was a conflict of interest having Town Attorney Poulson represent Mr. Obrecht. Mr. Obrecht stated that Town Attorney Poulson does not feel there is a conflict and is only handling the settlement of the property. Building and Zoning Administrator Lewis stated that Town Attorney Poulson is on the Town's payroll and should not represent either one. Mr. Obrecht stated that Town Attorney Poulson will be dropped after the settlement on March 17, 2006.

Mr. Daisey asked if Town Attorney Poulson has been advising the Town on this matter. Building and Zoning Administrator Lewis advised that because of the conflict he has not

asked for legal advice from Town Attorney Poulson. Mr. Daisey continued to review the plans and expressed a concern from a prior meeting of storage facilities on premises and gasoline. He feels this could be the potential for a fire in a multi-family dwelling. Mr. Obrecht advised him of the plans for hose stations at the piers for water access at the marina. Mr. Daisey asked about the walkways around the buildings. Mr. Obrecht explained where they would be. Mr. Daisey asked about drainage toward the Channel as opposed to Main Street. Mr. Dan Tolbert, ESP Design, explained the pipe system and added that there would be a catch basin which would drain into the Channel. Mr. Daisey also addressed the wastewater treatment system. Mr. Obrecht explained the approved systems. He stated that they are approved to build two plants but would prefer to build one big plant. He added that it has been designed to fit in the area designated as the property between the U. S. Coast Guard and a piece of the Russell Fish parcel which will slightly extend the area a little. Chairman Rosenberber asked if it was above grade, and Mr. Obrecht advised it was. He added that it is the same unit that is presently there which is a 2" pipe force-main to the Channel. Mr. Daisey asked about the plans for lighting. Mr. Obrecht stated that the plans have been submitted to Acting Town Manager Jeffries. He feels that there isn't too much lighting and it will be night-friendly to be provided by Delmarva Power.

Mrs. Cherrix asked about a buffer zone. Mr. Obrecht stated that there could be a well landscaped buffer zone but there is an issue of the requirements for parking. Mrs. Cherrix feels that there should be something along the property line. She also expressed her concerns for emergency vehicle access. Mr. Obrecht advised that it meets the requirements. Mrs. Cherrix stated that it would be impossible for a ladder truck to obtain access to the far end unit. She understands there is a fire suppression system and hydrants but is still concerned for the limited access.

Chairman Rosenberger explained that safety is a major concern of the Commission. He stated that the only access would be by boat and Chincoteague does not have a fire boat at this time.

Mrs. Richardson asked about the 12' easement between the Brzezinska and Raymond parcels. Mr. Obrecht stated that the easement is for private use and not the entrance for this project. He also advised that it will connect to the existing parking lot. He added that it cannot be blocked and they will try to regulate it. There was discussion about a solution to avoid the public use of the easement.

Building and Zoning Administrator Lewis advised that during the review of the project it was his understanding that this area would be closed. He explained that the plans show of one ingress and egress on the property. The Commission suggested closing it to through traffic and deeming it a driveway.

Mr. Obrecht advised that the plan was to maintain the driveway entrance that exists. Mr. Derrickson stated that planting shrubbery as a barrier would be sufficient. Mr. Obrecht stated that because this has been an issue they would be compliant in this area.

There was discussion of grass pavers because of the plans for parking that abutts the adjacent properties. Mr. Obrecht also added that because of the purchase of the Captain Fish parcel they will be able to put an additional 50 parking spaces there. Mrs. Richardson asked about the existing boat slips. Mr. Obrecht stated that it will remain as is for the time being and eventually they would like to close it.

Mrs. Wolffe asked if any of the units would be built on an area that has been filled. Mr. Obrecht advised that the units will be put on steel pilings. He stated the plan is to build a village that looks like residences and not a motel. The Commission reviewed the plans. He explained the courtyard, roof structures, storage lockers for each entrance, and crosswalks. They also reviewed the plans for landscaping. Mr. Obrecht stated that the buildings will be on natural ground with a little fill to create drainage for storm water. Mrs. Wolffe stated that it appears that part of the shore line is being transferred to another location. She asked if there would be a building in the area that was water. Mr. Obrecht stated that some of the wetlands that have been mitigated will have buildings in those areas and are permitted. Mrs. Wolffe asked about the wetlands permit. She stated that it is in the name of Captain Fish's, which is owned by BIC, Inc. She added that page 2, #6, of the wetlands permit states that the permit may not be transferred without written consent of the Board. Mr. Obrecht stated that it has been granted by the Board. Mrs. Wolffe also stated that Mr. Britton is responsible for supplying the Wetlands Board with a letter explaining all approved mitigation proposals with proper documentations. Mr. Obrecht stated that Mr. Britton has done this and it has been approved. He added that Mr. Britton needs to proceed with the actual mitigation prior to filling.

Mrs. Wolffe stated that prior to approval, the Commission will need proper documentation. Mr. Obrecht stated that this has nothing to do with the approval of the plans. He added that mitigation has been done as part of the permit. Mrs. Wolffe expressed her concern and confusion of the different names on the permits along with the different property locations. Mr. Obrecht explained that he isn't looking for exceptions or variances; they have complied with all the ordinances, and all the permits are valid. Mrs. Wolffe doesn't feel that the Commission is proceeding legally because of the conflict with Town Attorney Poulson.

Mr. Obrecht stated that the ordinances are already written and in place. He stated that Town Attorney Poulson has nothing to do with changing ordinances or this matter would be before the BZA. Mrs. Wolffe added that Town Attorney Poulson does advise the Commission upon their request. Mr. Obrecht stated that they are in compliance with the ordinances. He also stated that the "roadway" has been the big discussion and they have complied with the different regulations.

Chairman Rosenberger expressed his concerns about the conflict. He stated that if all the requirements are met for the permitting process then it is the role of the Commission for approval of the plans. Chairman Rosenberger stated that all the permits address Captain Fish's and not Chincoteague Inn. Mr. Obrecht stated that they aren't looking for marina permits for the Chincoteague Inn at this time. He added that they will apply for a marina

permit when they decide to go forth with that part of the project provided they have proper parking. He stated that they have everything in place that was requested of them.

Mrs. Wolffe also addressed safety and emergency accessibility. She understands that the existing ordinances have been met, however this is an issue. Mr. Obrecht also added that there is a sprinkler system and they will have the proper inspections. Mrs. Wolffe asked (in reference to Sunset Bay South) if there is access to the side of the building where the HVAC unit is. Mr. Obrecht advised that they will be put on the roof because of noise and the existing area will be an open breezeway. There was also discussion of the lot to the south of the project and Mr. Obrecht advised that there is a contract to purchase this property for additional parking.

Mr. Derrickson asked if the first part of development will be the property between the Chincoteague Inn and Captain Fish's. Mr. Obrecht stated this would be the first part of development. Mr. Derrickson asked about the access to the property. Mr. Obrecht explained the drawings. Mr. Derrickson stated that with the large amount of parking he would like to see some green space if it can be done with the space. There was more discussion of the calculations of the parking requirements.

Chairman Rosenberger stated that this is a very large development. Building and Zoning Administrator Lewis advised that prior to approval of a major subdivision that the plat has to be recorded within 12 months or it is considered null and void. He stated that it appears that a restaurant will continue for 2 years before it is demolished. He asked how it works if the plat is recorded on the 11th month. Chairman Rosenberger also asked if this should be approved in phases. He expressed concern of approval prior to Mr. Obrecht settling on the property. Mr. Obrecht stated that the settlement depends on the approval. He explained that building permits are obtained prior to ownership of land across the United States and the owner would give permission. Chairman Rosenberger stated that it is his practice to obtain the property and then plan and build the house. Mr. Obrecht stated that it is a little different when you are building to this scale.

Mr. Daisey asked if a plat is recorded in the 11th month as to what the plan is going to be and Chincoteague Inn remains open for another 12 to 18 months, does this mean that when the Chincoteague Inn property is demolished and prepped for the construction should it be exactly as the plat is recorded. Building and Zoning Administrator Lewis stated that his concern isn't for the vacant lot, it is that once the plat is recorded and the units are phasing in, at what point does one or the other of the uses cease. He stated that the Planning Commission has to guide him as to what point the restaurant use has to stop. Mr. Daisey stated that there is the potential of something open-ended.

Mr. Obrecht stated that there can be a restriction of 3 years. He added that he is trying to keep the restaurant open as long as possible. Mr. Daisey explained that there was a project in Ocean City that took 6 years to complete and the Town does not want this. He added that the idea is to discuss and possibly ask for guidance from Council of a time-limit from the plat recording to completion. Mr. Daisey also stated that he understands that Mr. Obrecht's involvement with Town Attorney Poulson will end March 17, 2006,

but the Town's involvement will not end at that time. He expressed his concern for the conflict. He questioned having to explain this issue to a citizen in the future.

Chairman Rosenberger suggested sending a letter to the Town Council regarding this issue. He added that the Commission makes recommendations and the Town Council makes the decisions and maybe they can direct the Commission as to what steps to take. Mr. Daisey stated that they can ask Council for direction to avoid the questions about transparency.

Mrs. Alicia Emery stated that they own a home at 3887 Main Street. She stated that she is an attorney and under the Professional Rules of Conduct under the American Board Association it is a conflict of interest for Town Attorney Poulson to take part in this transaction and plan. She stated that it hasn't been separate and she suggested that Mr. Obrecht obtain another attorney for representation. Mrs. Emery addressed the easement issue. She stated that if there isn't a fence to keep people from using this as a short-cut the use would possibly take place and she suggested fencing the area and only allowing them to use the easement. She also knew that with the 12' of roadway it wouldn't be sufficient for any other use. Mrs. Emery asked the Commission not to pass this plan without revisions to eliminate the public access as a short-cut. She stated that they did not receive a copy of the plan prior to this meeting. She also stated that on the easement there is a sewage pipe and there are liability issues in respect to the sewage pipe. Mrs. Emery expressed her concerns for the environmental issues not only with flooding but with a burst sewage line. She asked the Commission to possibly resituate the sewage line in a larger area such as the 50' driveway. She also suggested retaining a bond for environmental indemnity.

Mrs. Emery also stated that the parking between her property and Mr. Jeffries' property is an impervious surface. She asked, if blacktopped, how the run-off would affect their properties. She stated that there are currently oyster shells which would be pervious. She thanked Mrs. Cherrix for her comment about the landscaping. She stated that they have to deal with lighting and additional parking and she would like to have some beautiful foliage as they will be losing their water view. She also suggested lighting that would direct the light toward his establishment and tenants.

Mrs. Emery stated that they should consider the maintenance issues of the sewage pipe and that an indemnity bond would protect the Town. She informed the Commission that she is a lawyer in Pennsylvania and New Jersey and her expertise is in lending. She stated that her clients are major banks and Mr. Obrecht's comments with respect to phasing and financing is incorrect. She stated that lenders will work with him if he needs to do the approvals in phases.

Mrs. Wolffe asked Mrs. Emery to put her comments in writing and address them to the Planning Commission. Mr. Derrickson asked for clarification of the easement and asked about the sewage line. Mr. Obrecht advised that the sewage line is from Chincoteague Inn toward Captain Fish's on Main Street. Chairman Rosenberger asked why the sewage line would run along Main Street if the properties abut each other. Mr. Obrecht advised

that they tried to work with Mrs. Emery on a crossing easement and offered benefits to tap the sewage along the houses and was denied. He stated that they asked for leniency and was offered \$700,000 for the additional parcel and then he asked about the house and was offered \$1,550,000.00 and felt it was absurd. He added that this is why they decided not to go straight through and this is the only route. Mrs. Emery expressed her concern that the sewage line would fail.

Chairman Rosenberger stated that this is an issue between the property owners and Mr. Obrecht and not an issue for the Planning Commission. He stated that the Commission recognizes her concerns and needs. He added that their role is to see that the requirements of the Town of Chincoteague are met. Chairman Rosenberger stated that there are concerns and Mr. Obrecht is willing to make modifications and has made modifications already. He doesn't believe there is a remedy that the Commission can supply. Mrs. Emery advised that as to the issues they have with the easement they will be entering litigation. She stated that the matter she wanted to bring to the Commission was about the roadway. Mr. Derrickson asked if they will own the land and she will have the easement. Mrs. Emery explained that the Raymonds will own the land and she is allowed to use this for ingress and egress with no obstacles at any time. She stated that a parking lot that encompasses it at any time can obstruct the easement. She added that they are not allowed to use the easement at any time. Mr. Obrecht stated that they are trying to be good neighbors by offering grass pavers and by not lighting in that area.

Chairman Rosenberger advised that in the condominium development and rules, the liability then transfers to the owner. Mrs. Emery stated that she worries they won't have the ability to support this.

Mr. Tolbert advised the Commission that there is a catch basin in this area. Chairman Rosenberger asked if this would be blocked-off as requested. Mr. Obrecht advised it would be blocked-off and is not their intent to have this used any other way.

Mayor Tarr asked if the Commission still has concerns about Town Attorney Poulson's conflict. He stated that the Commission has not asked for any legal advice on this project nor does he know of any questions to be asked. Mayor Tarr stated that Town Attorney Poulson has been advising on the future of Chincoteague, but not specifically to this project.

Chairman Rosenberger stated that Town Attorney Poulson has not been questioned specifically about this project. However, he has given recommendations on marinas. He added that the concern is about perception. Mayor Tarr stated that the marina recommendations have nothing to do with this matter. He also added that it is unethical for an attorney to attack the Town's Attorney, especially when he is not in attendance.

Chairman Rosenberger asked Building and Zoning Administrator Lewis if all the requirements have been met. Building and zoning Administrator Lewis advised that they have.

Mrs. Richardson asked if the Health Department has anything to do with this. Building and Zoning Administrator Lewis advised he received a letter (not pertaining to this case) about the DEQ approving the sewage to the Landmark Plaza and that the Richmond Health Department has mailed a letter stating that the sewage has not been approved. He stated that the Health Department will have to sign-off on the plat for approval prior to the Commission and Zoning approval. Mr. Obrecht advised that the DEQ stated that they will review and take care of the whole package.

Mr. Daisey asked if the Committee is satisfied with the handling of the easement. Mr. Obrecht stated that they are offering to put in grass pavers and block off the entrance other than her driveway section along with no lighting along that area. He also advised that there would be nothing along the 12' of driveway. Mrs. Emery asked what would separate the driveway between the grass pavers. The Commission suggested bushes, flowers, or trees. Mr. Obrecht advised he will do the landscaping.

Mrs. Wolffe stated she is uncomfortable with approving the plans and would like to listen to the tape and review the minutes for the future plans. Mr. Obrecht advised that all the necessary permits are in-hand and is a phase process.

Mr. Britton explained the process and stated that all the permits are in hand. He added that the only matter to go before the Board is the 6 or 7 boat slips that were granted on the Chincoteague Channel by the Marine Resources Commission to be changed from his name to the new owner's name. Chairman Rosenberger added that the marina issue has been dropped.

Mr. Daisey motioned, seconded by Mr. Derrickson to approve the plans for Sunset Bay 1 & Sunset Bay 2. Ayes: Rosenberger, Derrickson, Behr, Daisey, Richardson; Nays: Cherrix, Wolffe. The motion carried.

Chairman Rosenberger stated that he spoke with the chairman of the BZA. They would like to have a joint session at their next meeting, Thursday, January 12, 2006 at 7:30 p.m. He also stated that the Commission requested to conduct special meetings and working sessions to resolve the sign issues. He advised that on January 26, 2006 there will be a meeting at 7:00 p.m. with the Planning Group, Redman and Johnson, and a regular meeting is scheduled for Tuesday, January 24, 2006 at 7:00 p.m.

There was discussion of the election of officers and Building and Zoning Administrator Lewis advised that the election of officers is to be conducted in September of each year. There was also discussion of the date for a work session about the sign issue and was decided to discuss this matter at the regular meeting on the 24th.

4. Adjournment.

Mrs. Richardson motioned, seconded by Mr. Daisey to adjourn the meeting. Unanimously approved. The motion carried.